

## **5:30-9A**

### **DISBURSEMENTS WITHOUT VENDOR CERTIFICATION**

#### **5:30-9A.1 Purpose**

These rules set forth standards for contracting units to follow when using procurement cards and electronic funds transfers for the acquisition of goods and services. These rules expressly permit the use of procurement cards and electronic funds transfers in any of the circumstances enumerated at N.J.S.A. 40A:5-16(c) and, therefore, permit payments to procurement card issuers, notwithstanding the provisions of N.J.S.A. 40A:5-16(a). These rules are intended to ensure that local units understand the risks associated with the use of procurement cards and electronic funds transfers in the acquisition of goods and services and implement sound fiscal and control practices governing such use. These rules do not permit the use of financial institution credit cards or debit cards by contracting units, nor do they alter or modify the requirements of N.J.S.A. 40A:5-16(b), or N.J.S.A. 40A:5-17 regarding approval or payment of funds to the procurement card issuer.

#### **5:30-9A.2 Definitions**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

*“Advance payment”* means those transactions for which an obligation to pay a procurement card issuer arises out of the acquisition of goods and services permitted by N.J.S.A. 40A:5-16(c).

*“Approval Officer”* means the supervisory individual who oversees the activities of the Chief financial officer.

*“Authorized procurement card user”* means the individual employee of the contracting unit authorized by the chief administrative officer to make transactions using a procurement card and whose name physically appears on the procurement card.

*“Chief administrative officer”* means the appointed employee who oversees the day-to-day administrative affairs of the contracting unit including, but not limited to the following titles: business administrator, administrator, township or city manager. In the absence of a chief administrative officer, the chief financial officer shall assume the administrative procedures set forth in these rules.”

*“Chief financial officer”* or *“CFO”* means the individual statutorily responsible for supervising the accounts and finances of a contracting unit, and shall include any certifying and approval officer appointed pursuant to N.J.S.A. 40A:5-17(a), or such individual in similar capacity legally appointed by the governing body of a contracting unit.

*“Contract”* means the written agreement entered into by a contracting unit and an authorized procurement card user for the purposes authorized in these rules.

*“Contracting unit”* means any county, municipality, board, commission, committee, authority or agency, and which has administrative jurisdiction over any district other than a school district, project, or facility, included or operating in whole or in part, within the territorial boundaries of any county or municipality which exercises functions which are appropriate for the exercise by one or more units of local government, and which has statutory power to make purchases and enter into contracts awarded by a contracting agent for the provision or performance of goods or services.

*“Disbursement”* means any payment of moneys, including any transfer of funds, by any means, to the procurement card issuer, and for the purposes of these rules, shall not include the obligation to pay arising out of transactions consummated by the use of a procurement card.

*“Electronic funds transfer”* means any method of transferring moneys permitted by this rule that does not involve the physical presentation of a paper check, including, but not limited to: wire transfers, e-checks, automated clearing house (ACH) transfers, and transactions initiated by phone or fax.

*“Governing body”* means the board, commission, council or other body having control of the finances of the contracting unit. In those contracting units where a chief executive officer is authorized by law to participate in such control through powers of recommendation, approval or veto, the term includes such chief executive officer to the extent of such participation.

*“Issuer”* means the financial institution that has issued a procurement card, provides services, billings and statements in support of a procurement card or receives payments in satisfaction of obligations created from the use of a procurement card. For purposes of these rules, issuer includes intermediary transfer agents who participate in the process of implementing electronic funds transfers on behalf of the contracting unit.

*“Local unit”* means a municipality, county, or authority subject to the “Local Authorities Fiscal Control Law,” P.L. 1983, c. 313 (N.J.S.A. 40A:5A-1 et seq.).

*“Payment documentation”* means such documentation, including evidence of approvals and certifications, as is required by N.J.S.A. 40A:5-16(b), N.J.S.A. 40A:5-17 and these rules prior to the legal paying out of moneys.

*“Permitted use”* means such use of procurement cards or electronic funds transfers as are specifically permitted by action of the governing body and the chief financial officer, but in no case beyond the scope of use permitted by N.J.S.A. 40A:5-16(c) or these rules.

*“Procurement card,” “P-card,” or “purchasing card”* means an account or the physical card that represents an account governed by characteristics specific to a procurement card. These characteristics include limits of time, amount, access, and purchase category controlled by the contracting unit in accordance with an agreement with an issuer. While such cards may have the appearance of a credit card, such as Visa™, MasterCard®, American Express or Discover, such general-purpose cards are not procurement cards and are not permitted under these rules.

*“Procurement card statement”* is the detailed billing or portion thereof that lists transactions initiated via procurement card, which statement is sufficient for review and reconciliation and constitutes a part of the payment documentation.

*“Reconciliation of activity”* means the process used to determine that all transactions on the procurement card statement are accurate, authorized and allocable to encumbered appropriations.

*“Supervisory review”* means the process performed by an individual in a supervisory capacity to confirm the propriety and accuracy of procurement card use initiated by subordinates.

*“Transaction”* means any activity that may result in demand to the contracting unit by a procurement card issuer for payment, or representing any other change or adjustment to the procurement card account.

### **5:30-9A.3 Authorization to use procurement cards and electronic funds transfers for the acquisition of goods and services**

(a) The governing body of a contracting unit may adopt policies that permit its specifically named employees to use procurement cards or electronic funds transfers for the acquisition of goods and services under the circumstances set forth in N.J.S.A. 40A:5-16(c). Such policies shall be in writing and shall be approved by resolution of the governing body. Such policies shall not exceed the limits and requirements expressed in the following conditions:

1. The conditions for advance payment under N.J.S.A. 40A:5-16(c)(1), covering circumstances when payment to vendors is required in advance of the delivery of certain goods or services that cannot be obtained from any other source at comparable prices, are as follows:
  - i. An individual transaction shall not exceed 15 percent of the contracting unit’s bid threshold;
  - ii. Advance payment is required by the vendor;
  - iii. Comparable pricing is not otherwise obtainable for such goods or services to be available at the time and place required; and
  - iv. The contracting agent has listed or otherwise approved such item for purchase from a particular vendor.
2. The conditions under N.J.S.A. 40A:5-16(c)(2), relating to circumstances when ordering, billing and payment transactions for goods or services are made through a computerized electronic transaction, are as follows:
  - i. Transactions occurring under these circumstances shall not exceed 15 percent of the contracting unit’s bid threshold;
  - ii. When an order is placed from a computer to a computer, such as on the Internet or similar computer network;
  - iii. The vendor requires immediate payment; and

- iv. The contracting unit's purchasing agent has approved such item for purchase from a particular vendor.
- 3. The conditions under N.J.S.A. 40A:5-16(c)(3) , which permits local units to pay out moneys without requiring certification are as follows:
  - i. An individual transaction shall not exceed 15 percent of the contracting unit's bid threshold, or shall be authorized pursuant to a contract awarded by the governing body; and
  - ii. Certification is not readily obtainable by the contracting unit; but such exceptions shall not include reimbursement of employee expenses or payment for personal services.
- 4. The following circumstances are deemed appropriate for P-card or electronic funds transfer use:
  - i. Transactions shall be limited to the transaction thresholds specified in (a) 1, 2 and 3 above;
  - ii. Items purchased must be tangible supplies, parts or materials necessary for ongoing operation and function of the contracting unit (for example, office supplies, sanitary supplies, auto supplies), or non-tangible items including e-z pass and utility payments, publications, memberships in organizations, conferences and training fees;
  - iii. Such items are purchased in transactions where vendor certification would not normally be readily available at the time of purchase;
  - iv. The cost of such purchases is comparable to costs available from other vendors where other vendors can provide the required goods and services in a timely manner; and
  - v. The contracting unit's purchasing agent has approved such item for purchase from a particular vendor;
- (b) This section does not change bid thresholds or other limits in the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.).
- (c) A procurement card number may be used in lieu of a credit card number required by a vendor.

**5:30-9A.4 Conditions for use of procurement cards or electronic funds transfers; organization and access**

- (a) Contracting units shall meet the following requirements prior to implementing procurement card and electronic funds transfer programs:
  - 1. The contracting unit adopt the appropriate administrative ordinance or resolution authorizing the specific purposes for use of procurement cards or electronic funds transfer consistent with the provisions of N.J.S.A. 40A:5-16(c) and limited by these rules. Examples of specific purposes may include and are not limited to acquisition

of office supplies with individual value of less than \$50.00, membership dues, publication or subscriptions, auto parts and supplies with individual values of less than \$150.00, parts and repairs necessary for the comfortable occupancy of municipal buildings not to exceed \$500.00.

2. The chief financial officer, in consultation with the governing body or its designee, where applicable, shall promulgate policies and procedures governing the use of procurement cards and cause a copy of said policies and procedures to be distributed to each individual whose duties may at any time include the use of a procurement card, supervisory review, or reconciliation of activity.
3. The Chief administrative officer, with the advice and consent of the Chief financial officer, will identify authorized procurement card users within the organizational structure that will benefit from the use of a procurement card and establish limits by amount, period (time), and category of usage permissible. The CFO shall identify an individual to conduct a supervisory review of procurement card activity of these assigned individuals. In the case of officers of the contracting unit, a peer may conduct the supervisory review.

(b) An authorized procurement card user is prohibited from using a P-card to conduct personal business or for any circumstances that are not authorized in N.J.S.A. 40A:5-16(c) or N.J.A.C. 5:30-9A.3.

#### **5:30-9A.5 Procurement card limit and control requirements**

(a) A procurement card differs substantially from a credit card issued by a financial institution because of the controls that may be exercised by the contracting unit. Before selection of an issuer (and in addition to consideration of fees and rebates, software and computer requirements, and accessibility to the vendor), the following limits and controls shall be available to and exercisable directly by the CFO or other management-level officers of the contracting unit:

1. The ability to control limits on-line and in real-time;
2. The ability to establish, change or delete limits on each card individually;
3. The ability to categorically restrict the use of individual cards;
4. The ability to establish a cumulative limit for a specific period;
5. The ability to review current activity on-line; and
6. The ability to receive sorted or sortable detailed reports of activity, by authorized care user, department or spending category.

#### **5:30-9A.6 Electronic funds transfer authorization**

Electronic funds transfers shall be authorized by the CFO.

**5:30-9A.7 Policies and practices governing use of procurement cards; audit**

(a) The contracting unit shall ensure that the use of procurement cards is governed by sound fiscal and management controls. All policies and procedures shall be enforced to ensure that the contracting unit shall establish procedures regarding the use of procurement cards as follows:

1. All authorized procurement card users, individuals responsible for supervisory review, individuals responsible for activity reconciliations, the purchasing agent, and the CFO are required to complete training on the policies and procedures governing the use of procurement cards;
2. Procurement cards shall be issued in the name of a specific individual. Said individual, upon completion of the requisite training, shall complete and sign a contract of understanding that includes financial responsibility for misuse of the procurement card. A card shall not be issued unless it can be shown that such issuance is necessary for the conduct of ongoing operations in the normal course of providing government services. Under no circumstance shall procurement cards be used to purchase personal property or services, including travel and dining expenses. Existing law, N.J.S.A. 40A:5-16.1, provides mechanisms for employees to receive travel and expense funds in advance. A procurement card is not to be issued to an individual who is neither covered by a fidelity bond nor by a blanket honesty policy held by the contracting unit and shall be cancelled if a person to whom a procurement card is issued becomes ineligible for coverage under the fidelity bond or blanket honesty policy; and
3. Violations of policies governing the use of procurement cards or intermediary transfer agents shall result in appropriate remedial or disciplinary action without regard to the position held by the card user.

(b) The CFO is responsible for the identification, analysis and management of all risks associated with the use of procurement cards.

(c) The contracting unit shall publish and distribute within the organization all policies and procedures that govern all procurement card users, their supervisors, the purchasing agent, the accounts payable and accounting personnel responsible for reconciliation of procurement card statements and the disbursement of funds in satisfaction thereof. Said policies and procedures shall, at a minimum, describe the following:

1. Who may use a procurement card;
2. The documentation required to be submitted by authorized procurement card users to support transactions, including electronic funds transfers;
3. The training required before an individual is permitted to use a procurement card;
4. The types of transactions permitted (personal use is not permissible);
5. The initial limits and procedure for establishing or revising limits in the future;
6. Encumbrance of limits assigned or amounts to be transferred electronically;

7. The penalties and disciplinary action to be assessed for improper use of a procurement card;
  8. Who is to conduct supervisory reviews;
  9. Procedures for contesting items appearing on the procurement card statement;
  10. Procedures for collecting restitution resulting from misuse;
  11. Reconciliation of activity; and
  12. Requirements for distribution of funds to the issuer.
- (d) The CFO, with the assistance of the purchasing agent, shall assure that the following information is gathered and reviewed prior to any disbursement of funds to the issuer:
- Evidence of each transaction, including a receipt or other acceptable documentation provided by the vendor of goods or services, and certified by the authorized procurement card user as having been received as described;
  - Evidence of supervisory review, certified by the reviewer that the purchase was appropriate and necessary;
  - A reconciliation of activity performed upon the transaction evidence, supervisory review and procurement card issuer statement; and
  - A distribution report indicating the complete allocation of funds to be paid against previously appropriated and encumbered items.
- (e) In addition to the annual assessment of internal controls conducted by the registered municipal accountant, the CFO is responsible for monitoring and assessing the quality of internal control performance on a continuing basis to assure that all controls are actively pursued each cycle without exception.

#### **5:30-9A.8 Eligible procurement card issuers; eligible providers of wire transfer services**

Procurement card issuers and providers of wire transfer services are to be financial institutions chartered by Federal or state authority.